

PART IV – REPRESENTATIONS AND INSTRUCTIONS

SECTION K

**REPRESENTATIONS, CERTIFICATIONS, AND OTHER STATEMENTS OF
OFFERORS OR RESPONDENTS**

Table of Contents

SECTION K - REPRESENTATIONS, CERTIFICATIONS, AND OTHER STATEMENTS OF OFFERORS OR RESPONDENTS

- K.1. LISTING OF PROVISIONS INCORPORATED BY REFERENCE
- K.2. ANNUAL REPRESENTATIONS AND CERTIFICATIONS (FAR 52.204-8) (JAN 2014)
- K.3. INFORMATION REGARDING RESPONSIBILITY MATTERS (FAR 52.209-7) (JUL 2013)
- K.4. COST ACCOUNTING STANDARDS AND NOTICES AND CERTIFICATIONS (FAR 52.230-1) (MAY 2012)
- K.5. PROPOSAL DISCLOSURE – COST ACCOUNTING PRACTICE CHANGES (FAR 52.230-7) (APR 2005)
- K.6. RESTRICTION ON FUNDING ACTIVITY WITH CHINA--REPRESENTATION (NFS 1852.225-72) (FEB 2012)
- K.7. CERTIFICATION BY OFFERORS REGARDING FEDERAL INCOME TAX FILING AND FEDERAL INCOME TAX VIOLATIONS (NFS 1852.209-74) (DEVIATION FEB 2012)
- K.8. REPRESENTATION BY CORPORATIONS REGARDING AN UNPAID DELINQUENT TAX LIABILITY OR A FELONY CONVICTION UNDER ANY FEDERAL LAW (NFS 1852.209-75) (DEVIATION FEB 2012)
- K.9. REPRESENTATION BY OFFERORS THAT THEY ARE NOT THE ASSOCIATION OF COMMUNITY ORGANIZATIONS FOR REFORM NOW (ACORN) OR A SUBSIDIARY OF ACORN (NFS 1852.209-73) (DEVIATION FEB 2012)
- K.10. INFORMATION TECHNOLOGY SYSTEMS FROM ENTITIES OWNED, DIRECTED OR SUBSIDIZED BY THE PEOPLE’S REPUBLIC OF CHINA (NFS 1852.225-73) (JUNE 2013) (DEVIATION)
- K.11. REVIEW OF THE OFFEROR'S INFORMATION TECHNOLOGY SYSTEMS SUPPLY CHAIN (NFS 1852.239-71) (APR 2014) (DEVIATION)

REPRESENTATIONS, CERTIFICATIONS, AND OTHER STATEMENTS OF OFFERORS OR RESPONDENTS

K.1. LISTING OF PROVISIONS INCORPORATED BY REFERENCE

PROVISIONS INCORPORATED BY REFERENCE (FEB 1998):

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. The Offeror is cautioned that the listed provisions may include blocks that must be completed by the Offeror and submitted with its quotation or offer. In lieu of submitting full text of those provisions, the Offeror may identify the provision by paragraph identifier and provide the appropriate information with its quotation or offer. Also, the full text of a clause may be accessed electronically at these addresses:

<http://www.arnet.gov/far/>

<http://www.hq.nasa.gov/office/procurement/regs/nfstoc.htm>

I. FEDERAL ACQUISITION REGULATION (FAR) (48 CFR CHAPTER 1) PROVISIONS:

CLAUSES INCORPORATED BY REFERENCE	
CLAUSE NUMBER	CLAUSE TITLE (DATE)
52.203-11	CERTIFICATION AND DISCLOSURE REGARDING PAYMENTS TO INFLUENCE CERTAIN FEDERAL TRANSACTIONS. (SEP 2007)
52.204-7	SYSTEM FOR AWARD MANAGEMENT (JUL 2013)
52.225-25	PROHIBITION ON ENGAGING IN SANCTIONED ACTIVITIES RELATING TO IRAN-CERTIFICATIONS. (DEC 2012)

II. NASA FAR SUPPLEMENTS (48 CFR CHAPTER 18) PROVISIONS:

NONE INCORPORATED BY REFERENCE

K.2. ANNUAL REPRESENTATIONS AND CERTIFICATIONS (FAR 52.204-8) (JAN 2014)

- (a) (1) The North American Industry Classification System (NAICS) code for this acquisition is **561210**.
- (2) The small business size standard is **\$35.5M**.
- (3) The small business size standard for a concern which submits an offer in its own name, other than on a construction or service contract, but which proposes to furnish a product which it did not itself manufacture, is 500 employees.

- (b) (1) If the provision at 52.204-7, System for Award Management, is included in this solicitation, paragraph (d) of this provision applies.
- (2) If the provision at 52.204-7 is not included in this solicitation, and the offeror is currently registered in the System for Award Management (SAM), and has completed the Representations and Certifications section of SAM electronically, the offeror may choose to use paragraph (d) of this provision instead of completing the corresponding individual representations and certifications in the solicitation. The offeror shall indicate which option applies by checking one of the following boxes:
- [] (i) Paragraph (d) applies.
- [] (ii) Paragraph (d) does not apply and the offeror has completed the individual representations and certifications in the solicitation.
- (c) (1) The following representations or certifications in SAM are applicable to this solicitation as indicated:
- (i) 52.203-2, Certificate of Independent Price Determination. This provision applies to solicitations when a firm-fixed-price contract or fixed-price contract with economic price adjustment is contemplated, unless—
- (A) The acquisition is to be made under the simplified acquisition procedures in Part 13;
- (B) The solicitation is a request for technical proposals under two-step sealed bidding procedures; or
- (C) The solicitation is for utility services for which rates are set by law or regulation.
- (ii) 52.203-11, Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions. This provision applies to solicitations expected to exceed \$150,000.
- (iii) 52.204-3, Taxpayer Identification. This provision applies to solicitations that do not include the provision at 52.204-7, System for Award Management.
- (iv) 52.204-5, Women-Owned Business (Other Than Small Business). This provision applies to solicitations that—
- (A) Are not set aside for small business concerns;
- (B) Exceed the simplified acquisition threshold; and
- (C) Are for contracts that will be performed in the United States or its outlying areas.

- (v) 52.209-2, Prohibition on Contracting with Inverted Domestic Corporations—Representation. This provision applies to solicitations using funds appropriated in fiscal years 2008, 2009, 2010, or 2012.
- (vi) 52.209-5, Certification Regarding Responsibility Matters. This provision applies to solicitations where the contract value is expected to exceed the simplified acquisition threshold.
- (vii) 52.214-14, Place of Performance—Sealed Bidding. This provision applies to invitations for bids except those in which the place of performance is specified by the Government.
- (viii) 52.215-6, Place of Performance. This provision applies to solicitations unless the place of performance is specified by the Government.
- (ix) 52.219-1, Small Business Program Representations (Basic & Alternate I). This provision applies to solicitations when the contract will be performed in the United States or its outlying areas.
 - (A) The basic provision applies when the solicitations are issued by other than DoD, NASA, and the Coast Guard.
 - (B) The provision with its Alternate I applies to solicitations issued by DoD, NASA, or the Coast Guard.
- (x) 52.219-2, Equal Low Bids. This provision applies to solicitations when contracting by sealed bidding and the contract will be performed in the United States or its outlying areas.
- (xi) 52.222-22, Previous Contracts and Compliance Reports. This provision applies to solicitations that include the clause at 52.222-26, Equal Opportunity.
- (xii) 52.222-25, Affirmative Action Compliance. This provision applies to solicitations, other than those for construction, when the solicitation includes the clause at 52.222-26, Equal Opportunity.
- (xiii) 52.222-38, Compliance with Veterans' Employment Reporting Requirements. This provision applies to solicitations when it is anticipated the contract award will exceed the simplified acquisition threshold and the contract is not for acquisition of commercial items.
- (xiv) 52.223-1, Biobased Product Certification. This provision applies to solicitations that require the delivery or specify the use of USDA–designated items; or include the clause at 52.223-2, Affirmative Procurement of Biobased Products Under Service and Construction Contracts.

- (xv) 52.223-4, Recovered Material Certification. This provision applies to solicitations that are for, or specify the use of, EPA–designated items.
- (xvi) 52.225-2, Buy American Act Certificate. This provision applies to solicitations containing the clause at 52.225-1.
- (xvii) 52.225-4, Buy American Act—Free Trade Agreements—Israeli Trade Act Certificate. (Basic, Alternates I, II, and III.) This provision applies to solicitations containing the clause at 52.225-3.
 - (A) If the acquisition value is less than \$25,000, the basic provision applies.
 - (B) If the acquisition value is \$25,000 or more but is less than \$50,000, the provision with its Alternate I applies.
 - (C) If the acquisition value is \$50,000 or more but is less than \$79,507, the provision with its Alternate II applies.
 - (D) If the acquisition value is \$79,507 or more but is less than \$100,000, the provision with its Alternate III applies.
- (xviii) 52.225-6, Trade Agreements Certificate. This provision applies to solicitations containing the clause at 52.225-5.
- (xix) 52.225-20, Prohibition on Conducting Restricted Business Operations in Sudan—Certification. This provision applies to all solicitations.
- (xx) 52.225-25, Prohibition on Contracting with Entities Engaging in Certain Activities or Transactions Relating to Iran-Representation and Certifications. This provision applies to all solicitations.
- (xxi) 52.226-2, Historically Black College or University and Minority Institution Representation. This provision applies to—
 - (A) Solicitations for research, studies, supplies, or services of the type normally acquired from higher educational institutions; and
 - (B) For DoD, NASA, and Coast Guard acquisitions, solicitations that contain the clause at 52.219-23, Notice of Price Evaluation Adjustment for Small Disadvantaged Business Concerns.
- (2) The following certifications are applicable as indicated by the Contracting Officer:
 - ___ (i) 52.219-22, Small Disadvantaged Business Status.
 - ___ (A) Basic.
 - ___ (B) Alternate I.

- ☐ (ii) 52.222-18, Certification Regarding Knowledge of Child Labor for Listed End Products.
- ☒ (iii) 52.222-48, Exemption from Application of the Service Contract Act to Contracts for Maintenance, Calibration, or Repair of Certain Equipment Certification.
- ☒ (iv) 52.222-52, Exemption from Application of the Service Contract Act to Contracts for Certain Services—Certification.
- ☒ (v) 52.223-9, with its Alternate I, Estimate of Percentage of Recovered Material Content for EPA–Designated Products (Alternate I only).
- ☒ (vi) 52.227-6, Royalty Information.
- ☐ (A) Basic.
- ☒ (B) Alternate I.
- ☒ (vii) 52.227-15, Representation of Limited Rights Data and Restricted Computer Software.

- (d) The offeror has completed the annual representations and certifications electronically via the SAM website accessed through <https://www.acquisition.gov>. After reviewing the SAM database information, the offeror verifies by submission of the offer that the representations and certifications currently posted electronically that apply to this solicitation as indicated in paragraph (c) of this provision have been entered or updated within the last 12 months, are current, accurate, complete, and applicable to this solicitation (including the business size standard applicable to the NAICS code referenced for this solicitation), as of the date of this offer and are incorporated in this offer by reference (see FAR 4.1201); except for the changes identified below [offeror to insert changes, identifying change by clause number, title, date]. These amended representation(s) and/or certification(s) are also incorporated in this offer and are current, accurate, and complete as of the date of this offer.

FAR Clause #	Title	Date	Change
_____	_____	_____	_____

Any changes provided by the offeror are applicable to this solicitation only, and do not result in an update to the representations and certifications posted on SAM.

(End of Provision)

K.3. INFORMATION REGARDING RESPONSIBILITY MATTERS (FAR 52.209-7)
(JUL 2013)

(a) *Definitions.* As used in this provision—

“Administrative proceeding” means a non-judicial process that is adjudicatory in nature in order to make a determination of fault or liability (*e.g.*, Securities and Exchange Commission Administrative Proceedings, Civilian Board of Contract Appeals Proceedings, and Armed Services Board of Contract Appeals Proceedings). This includes administrative proceeding at the Federal and State level but only in connection with performance of a Federal contract or grant. It does not include agency actions such as contract audits, site visits, corrective plans, or inspection of deliverables.

“Federal contracts and grants with total value greater than \$10,000,000” means—

- (1) The total value of all current, active contracts and grants, including all priced options; and
- (2) The total value of all current, active orders including all priced options under indefinite-delivery, indefinite-quantity, 8(a), or requirements contracts (including task and delivery and multiple-award Schedules).

“Principal” means an officer, director, owner, partner, or a person having primary management or supervisory responsibilities within a business entity (*e.g.*, general manager; plant manager; head of a division or business segment; and similar positions).

- (b) The offeror ☐ has ☐ does not have current active Federal contracts and grants with total value greater than \$10,000,000.
- (c) If the offeror checked “has” in paragraph (b) of this provision, the offeror represents, by submission of this offer, that the information it has entered in the Federal Awardee Performance and Integrity Information System (FAPIIS) is current, accurate, and complete as of the date of submission of this offer with regard to the following information:
 - (1) Whether the offeror, and/or any of its principals, has or has not, within the last five years, in connection with the award to or performance by the offeror of a Federal contract or grant, been the subject of a proceeding, at the Federal or State level that resulted in any of the following dispositions:
 - (i) In a criminal proceeding, a conviction.

- (ii) In a civil proceeding, a finding of fault and liability that results in the payment of a monetary fine, penalty, reimbursement, restitution, or damages of \$5,000 or more.
- (iii) In an administrative proceeding, a finding of fault and liability that results in—
 - (A) The payment of a monetary fine or penalty of \$5,000 or more; or
 - (B) The payment of a reimbursement, restitution, or damages in excess of \$100,000.
- (iv) In a criminal, civil, or administrative proceeding, a disposition of the matter by consent or compromise with an acknowledgment of fault by the Contractor if the proceeding could have led to any of the outcomes specified in paragraphs (c)(1)(i), (c)(1)(ii), or (c)(1)(iii) of this provision.
- (2) If the offeror has been involved in the last five years in any of the occurrences listed in (c)(1) of this provision, whether the offeror has provided the requested information with regard to each occurrence.
- (d) The offeror shall post the information in paragraphs (c)(1)(i) through (c)(1)(iv) of this provision in FAPIIS as required through maintaining an active registration in the System for Award Management database via <https://www.acquisition.gov> (see 52.204-7).

(End of provision)

**K.4. COST ACCOUNTING STANDARDS AND NOTICES AND CERTIFICATIONS
(FAR 52.230-1) (MAY 2012)**

Note: This notice does not apply to small businesses or foreign governments. This notice is in three parts, identified by Roman numerals I through III.

Offerors shall examine each part and provide the requested information in order to determine Cost Accounting Standards (CAS) requirements applicable to any resultant contract. If the offeror is an educational institution, Part II does not apply unless the contemplated contract will be subject to full or modified CAS coverage pursuant to 48 CFR 9903.201-2(c)(5) or 9903.201-2(c)(6), respectively.

I. Disclosure Statement -- Cost Accounting Practices and Certification

- (a) Any contract in excess of \$700,000 resulting from this solicitation will be subject to the requirements of the Cost Accounting Standards Board (48 CFR Chapter 99), except for those contracts which are exempt as specified in 48 CFR 9903.201-1.

- (b) Any offeror submitting a proposal which, if accepted, will result in a contract subject to the requirements of 48 CFR Chapter 99 must, as a condition of contracting, submit a Disclosure Statement as required by 48 CFR 9903.202. When required, the Disclosure Statement must be submitted as a part of the offeror's proposal under this solicitation unless the offeror has already submitted a Disclosure Statement disclosing the practices used in connection with the pricing of this proposal. If an applicable Disclosure Statement has already been submitted, the offeror may satisfy the requirement for submission by providing the information requested in paragraph (c) of Part I of this provision.

Caution: In the absence of specific regulations or agreement, a practice disclosed in a Disclosure Statement shall not, by virtue of such disclosure, be deemed to be a proper, approved, or agreed-to practice for pricing proposals or accumulating and reporting contract performance cost data.

- (c) Check the appropriate box below:
- ☐ (1) *Certificate of Concurrent Submission of Disclosure Statement.* The offeror hereby certifies that, as a part of the offer, copies of the Disclosure Statement have been submitted as follows:
- (i) Original and one copy to the cognizant Administrative Contracting Officer (ACO) or cognizant Federal agency official authorized to act in that capacity (Federal official), as applicable; and
- (ii) One copy to the cognizant Federal auditor.

(Disclosure must be on Form No. CASB DS-1 or CASB DS-2, as applicable. Forms may be obtained from the cognizant ACO or Federal official and/or from the loose-leaf version of the Federal Acquisition Regulation.)

Date of Disclosure Statement: _____

Name and Address of Cognizant ACO or Federal Official Where Filed:

The offeror further certifies that the practices used in estimating costs in pricing this proposal are consistent with the cost accounting practices disclosed in the Disclosure Statement.

- ☐ (2) *Certificate of Previously Submitted Disclosure Statement.* The offeror hereby certifies that the required Disclosure Statement was filed as follows:

Date of Disclosure Statement: _____

Name and Address of Cognizant ACO or Federal Official Where Filed:

The offeror further certifies that the practices used in estimating costs in pricing this proposal are consistent with the cost accounting practices disclosed in the applicable Disclosure Statement.

- ☐ (3) *Certificate of Monetary Exemption.* The offeror hereby certifies that the offeror, together with all divisions, subsidiaries, and affiliates under common control, did not receive net awards of negotiated prime contracts and subcontracts subject to CAS totaling \$50 million or more in the cost accounting period immediately preceding the period in which this proposal was submitted. The offeror further certifies that if such status changes before an award resulting from this proposal, the offeror will advise the Contracting Officer immediately.
- ☐ (4) *Certificate of Interim Exemption.* The offeror hereby certifies that
- (i) the offeror first exceeded the monetary exemption for disclosure, as defined in (3) of this subsection, in the cost accounting period immediately preceding the period in which this offer was submitted and
 - (ii) in accordance with 48 CFR 9903.202-1, the offeror is not yet required to submit a Disclosure Statement. The offeror further certifies that if an award resulting from this proposal has not been made within 90 days after the end of that period, the offeror will immediately submit a revised certificate to the Contracting Officer, in the form specified under subparagraph (c)(1) or (c)(2) of Part I of this provision, as appropriate, to verify submission of a completed Disclosure Statement.

Caution: Offerors currently required to disclose because they were awarded a CAS-covered prime contract or subcontract of \$50 million or more in the current cost accounting period may not claim this exemption (4). Further, the exemption applies only in connection with proposals submitted before expiration of the 90-day period following the cost accounting period in which the monetary exemption was exceeded.

II. Cost Accounting Standards -- Eligibility for Modified Contract Coverage

If the offeror is eligible to use the modified provisions of 48 CFR 9903.201-2(b) and elects to do so, the offeror shall indicate by checking the box below. Checking the box below shall mean that the resultant contract is subject to the Disclosure and Consistency of Cost Accounting Practices clause in lieu of the Cost Accounting Standards clause.

- ☐ The offeror hereby claims an exemption from the Cost Accounting Standards clause under the provisions of 48 CFR 9903.201-2(b) and certifies that the offeror is eligible for use of the Disclosure and Consistency of Cost Accounting Practices clause because during the cost accounting period immediately preceding the

period in which this proposal was submitted, the offeror received less than \$50 million in awards of CAS-covered prime contracts and subcontracts. The offeror further certifies that if such status changes before an award resulting from this proposal, the offeror will advise the Contracting Officer immediately.

Caution: An offeror may not claim the above eligibility for modified contract coverage if this proposal is expected to result in the award of a CAS-covered contract of \$50 million or more or if, during its current cost accounting period, the offeror has been awarded a single CAS-covered prime contract or subcontract of \$50 million or more.

III. Additional Cost Accounting Standards Applicable to Existing Contracts

The offeror shall indicate below whether award of the contemplated contract would, in accordance with subparagraph (a)(3) of the Cost Accounting Standards clause, require a change in established cost accounting practices affecting existing contracts and subcontracts.

☐ Yes ☐ No

(End of Provision)

K.5. PROPOSAL DISCLOSURE – COST ACCOUNTING PRACTICE CHANGES (FAR 52.230-7) (APR 2005)

The offeror shall check “yes” below if the contract award will result in a required or unilateral change in cost accounting practice, including unilateral changes requested to be desirable changes.

☐ Yes ☐ No

If the offeror checked “Yes” above, the offeror shall—

- (1) Prepare the price proposal in response to the solicitation using the changed practice for the period of performance for which the practice will be used; and
- (2) Submit a description of the changed cost accounting practice to the Contracting Officer and the Cognizant Federal Agency Official as pricing support for the proposal.

(End of provision)

K.6. RESTRICTION ON FUNDING ACTIVITY WITH CHINA--REPRESENTATION (NFS 1852.225-72) (FEB 2012)

- (a) Definition - "China" or "Chinese-owned" means the People's Republic of China, any company owned by the People's Republic of China or any company incorporated under the laws of the People's Republic of China.

- (b) Public Laws 112-10, Section 1340(a) and 112-55, Section 536, restrict NASA from contracting to participate, collaborate, or coordinate bilaterally in any way with China or a Chinese-owned company with funds appropriated on or after April 25, 2011. Contracts for commercial and non-developmental items are excepted from the prohibition as they constitute purchase of goods or services that would not involve participation, collaboration, or coordination between the parties.
- (c) Representation. By submission of its offer, the Offeror represents that the Offeror is not China or a Chinese-owned company.

(End of Provision)

K.7. CERTIFICATION BY OFFERORS REGARDING FEDERAL INCOME TAX FILING AND FEDERAL INCOME TAX VIOLATIONS (NFS 1852.209-74) (DEVIATION FEB 2012)

- (a) In accordance with section 527 of “The Consolidated and Further Continuing Appropriation Act of 2012” (Pub. L.112-55) none of the funds made available by the Act may be used to enter into a contract in an amount greater than \$5 Million unless the prospective contractor certifies in writing to NASA that, to the best of its knowledge and belief, the contractor has filed all Federal tax returns required during the three years preceding the certification, has not been convicted of a criminal offense under the Internal Revenue Code of 1986, and has not, more than 90 days prior to certification, been notified of any unpaid Federal tax assessment for which the liability remains unsatisfied, unless the assessment is the subject of an installment agreement or offer in compromise that has been approved by the Internal Revenue Service and is not in default, or the assessment is the subject of a non-frivolous administrative or judicial proceeding.
- (b) The Offeror's proposal shall include a signed written certification as follows—

To the best of my knowledge and belief, ---(name of offeror)--- has filed the Federal tax returns required during the three years preceding this certification, has not been convicted of a criminal offense under the Internal revenue Code of 1986, and has not, more than 90 days prior to certification, been notified of any unpaid Federal tax assessment for which the liability remains unsatisfied, unless the assessment is the subject of an installment agreement or offer in compromise that has been approved by the Internal Revenue Service and is not in default, or the assessment is the subject of a non-frivolous administrative or judicial proceeding.

Firm _____
 Signature _____
 Name _____
 Title _____
 Date of execution _____

(End of Provision)

K.8. REPRESENTATION BY CORPORATIONS REGARDING AN UNPAID DELINQUENT TAX LIABILITY OR A FELONY CONVICTION UNDER ANY FEDERAL LAW (NFS 1852.209-75) (DEVIATION FEB 2012)

- (a) In accordance with sections 544 and 543 of “The Consolidated and Further Continuing Appropriation Act of 2012” (Pub. L.112-55), none of the funds made available by that Act may be used to enter into a contract with any corporation that-
- (1) Has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability, where the awarding agency is aware of the unpaid tax liability, unless the agency has considered suspension or debarment of the corporation and made a determination that this action is not necessary to protect the interests of the Government; or
 - (2) Was convicted (or had an officer or agent of such corporation acting on behalf of the corporation convicted) of a felony criminal violation under any Federal law within the preceding 24 months, where the awarding agency is aware of the conviction, unless the agency has considered suspension or debarment of the corporation and made a determination that this action is not necessary to protect the interests of the Government.
- (b) The Offeror represents that :
- (1) It is ☐ is not ☐ a corporation that has had any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability; and
 - (2) It is ☐ is not ☐ a corporation that was convicted, or had an officer or agent acting on behalf of the corporation convicted, of a felony criminal violation under a Federal law within the preceding 24 months.

(End of Provision)

K.9. REPRESENTATION BY OFFERORS THAT THEY ARE NOT THE ASSOCIATION OF COMMUNITY ORGANIZATIONS FOR REFORM NOW (ACORN) OR A SUBSIDIARY OF ACORN (NFS 1852.209-73) (DEVIATION FEB 2012)

- (a) In accordance with section 534 of “The Consolidated and Further Continuing Appropriation Act of 2012” (Pub. L.112-55) none of the funds made available by the

Act may be distributed to the Association of Community Organizations for Reform Now (ACORN) or its subsidiaries.

- (b) The Offeror represents, by submission of its offer, that it is not the Association of Community Organizations for Reform Now (ACORN) or a subsidiary thereof.

(End of Provision)

K.10. INFORMATION TECHNOLOGY SYSTEMS FROM ENTITIES OWNED, DIRECTED OR SUBSIDIZED BY THE PEOPLE’S REPUBLIC OF CHINA (NFS 1852.225-73) (JUNE 2013) (DEVIATION)

- (a) Definitions –

“**Acquire**” means procure with appropriated funds by and for the use of NASA through purchase or lease.

“**Entity owned, directed or subsidized by the People’s Republic of China**” means any organization incorporated under the laws of the People’s Republic of China.

“**Information Technology (IT) System**” means the combination of hardware components, software, and other equipment to make a system whose core purpose is to accomplish a data processing need such as the automatic acquisition, storage, analysis, evaluation, manipulation, management, movement, control, display, switching, interchange, transmission or reception of data. IT systems include ground systems in support of flight hardware. IT systems do not include—

- 1) Systems acquired by a contractor incidental to a contract;
- 2) Imbedded information technology that is used as an integral part of the product, but the principal function of which is not the acquisition, storage, analysis, evaluation, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information. For example, HVAC (heating, ventilation, and air conditioning) equipment such as thermostats or temperature control devices, and medical equipment where information technology is integral to its operation, are not information technology systems;
- 3) Services in support of IT systems, such as help desk services; or
- 4) Flight hardware, which includes aircraft, spacecraft, artificial satellites, launch vehicles, balloon systems, sounding rockets, on-board instrument and technology demonstration systems, and equipment operated on the International Space Station; as well as prototypes, and engineering or brass

boards created and used to test, troubleshoot, and refine air- and spacecraft hardware, software and procedures.

- (b) Section 516 of the Consolidated and Further Continuing Appropriation Act, 2013 (Pub. L.113-6), requires NASA's Office of the Chief Information Officer (OCIO) to assess the risk of cyber-espionage or sabotage of an information technology (IT) system that is produced, manufactured, or assembled by an entity owned, directed or subsidized by the People's Republic of China. By submitting an offer in response to this solicitation, the Offeror understands and agrees that the Government retains the right to reject any offer or response to this solicitation made by the Offeror, without any further recourse by, or explanation to, the Offeror, if the Government determines the Offeror or the equipment or software offered by the Offeror, in whole or in part, presents an unacceptable risk to national security.
- (c) *Representation.* The Offeror represents that any information technology system offered, except those listed in paragraph (d) of this provision, is not produced, manufactured, or assembled by an entity owned, directed or subsidized by the People's Republic of China.
- (d) Information technology system(s) produced, manufactured, or assembled by an entity owned, directed or subsidized by the People's Republic of China:

ITEM	VENDOR/MANUFACTURER'S COMPANY NAME AND ADDRESS
_____	_____
_____	_____
_____	_____

[List as necessary]

- (e) The Contracting Officer will provide the list referenced in paragraph (d) to the NASA Office of the Chief Information Officer (OCIO) which will assess the risk of cyber-espionage or sabotage and make a determination if the acquisition of such system is in the national interest. Only items so approved may be provided under the contract. The Contracting Officer will advise the Offeror if any items are not approved and may provide the Offeror an opportunity to revise its proposal.

(End of provision)

**K.11. REVIEW OF THE OFFEROR'S INFORMATION TECHNOLOGY
SYSTEMS SUPPLY CHAIN (NFS 1852.239-71) (APR 2014)
(DEVIATION)**

(a) Definitions-

"Acquire" means procure with appropriated funds by and for the use of NASA through purchase or lease.

"Information Technology (IT) System" means the combination of hardware components, software, and other equipment to make a system whose core purpose is to accomplish a data processing need such as the automatic acquisition, storage, analysis, evaluation, manipulation, management, movement, control, display, switching, interchange, transmission or reception of data. IT systems include ground systems in support of flight hardware. IT systems do not include-

- (1) Systems acquired by a contractor incidental to a contract and not directly charged to the contract, such as a contractor's payroll and personnel management system;
- (2) Systems that do not process NASA information, i.e., any data which is collected, generated, maintained, or controlled on behalf of the Agency;
- (3) Imbedded information technology that is used as an integral part of the product, but the principal function of which is not the acquisition, storage, analysis, evaluation, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information. For example, HVAC (heating, ventilation, and air conditioning) equipment such as thermostats or temperature control devices, and medical equipment where information technology is integral to its operation;
- (4) Services in support of IT systems, such as help desk services; or
- (5) Flight hardware, which includes aircraft, spacecraft, artificial satellites, launch vehicles, balloon systems, sounding rockets, on-board instrument and technology demonstration systems, and equipment operated on the International Space Station; as well as prototypes, and engineering or brass boards created and used to test, troubleshoot, and refine air- and spacecraft hardware, software and procedures.

- (b) Section 515 of the Consolidated and Further Continuing Appropriation Act, 2014 (Pub.L.113-76), requires NASA's Chief Information Officer (CIO) to review the supply chain risk of cyber-espionage or sabotage before the Agency acquires any high-impact or moderate-impact IT system. The NASA CIO will use the security categorization in the National Institute of Standards and Technology's (NIST) Federal Information Processing Standard Publication 199, "Standards for Security Categorization of Federal Information and Information Systems" to determine whether an IT system is high-impact or moderate-impact.

- (c) The apparent successful offeror shall provide the following information for all IT systems offered:
- (1) A brief description of the item(s);
 - (2) Vendor/manufacturer's company name and address; and
 - (3) If known, manufacturer's web site, and Commercial and Government Entity (CAGE) code.
- (d) The Contracting Officer will provide the information referenced in paragraph (c) to the NASA CIO. Section 515 only allows NASA to acquire IT systems approved by the NASA CIO. NASA must reject any IT system the CIO deems to be a high impact or moderate impact unless it is determined the acquisition is in the national interest of the United States. The Government reserves the right to make this decision, without any further explanation to the Offeror. The Contracting Officer will advise the Offeror if any IT systems are not approved and may provide the Offeror an opportunity to revise its proposal.

(End of provision)

(END OF SECTION)